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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,639	09/20/2005	Hubert Cecile Francois Martens	NL 030329	8062
24737 7590 07/16/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
			EXAMINER SASINOWSKI, ANDREW	
			ART UNIT 2627	PAPER NUMBER
			MAIL DATE 07/16/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,639

Applicant(s)

MARTENS ET AL.

Examiner

ANDREW J. SASINOWSKI

Art Unit

2627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Maeda et. al. [US 6,072,759].

Regarding claim 1, Maeda teaches:

- Record carrier of a writable type for recording information by writing marks in a track on a recording layer via a beam of radiation entering through an entrance face of the record carrier **[abstract]**,
- the marks being detectable during scanning the track via the beam **[col. 5, lines 21 – 31]**,
- the record carrier comprising at least a first recording layer and a second recording layer **[fig. 5c]**,
- the first recording layer being present at a position closer to the entrance face than the second recording layer **[either layer could be the 'first layer' and meet this claim limitation]**,
- and a transparent spacer layer between the recording layers **[fig. 1b, 'Z']**,
- each recording layer comprising a pregroove indicating the position of the track **[fig. 5c, also see col. 6, lines 46 – 53]**,

- the pregroove exhibiting a wobble constituted by displacements of the pregroove in a direction transverse to the longitudinal direction of the track **[abstract, note that DVD-formatted media have wobbled tracks]**
- the wobble exhibiting a wobble modulation for representing control information **[abstract]**,
- and the pregroove on the first recording layer extending spirally in a first direction and the pregroove on the second recording layer extending spirally in a second direction opposite to the first direction for constituting a multi-part recording area **[fig. 5c]** interrupted by an intermediate zone that physically is constituted by a first intermediate part located at the end of the first recording layer and a second intermediate part located at the start of the second recording layer **[fig. 5c, note that the middle area is divided into a part in the first layer and a part in the second layer, meeting the claimed limitation]**,
- the recording area being preceded by lead-in information located at the start of the first recording layer and being followed by an ending part for lead-out information or further intermediate information located at the end of the second recording layer **[fig. 5c]**,
- a lead-in part of the pregroove located at a part of the first recording layer intended for recording the lead-in information comprising said wobble modulation representing first control information including recording parameters for the first recording layer **[fig. 5c, abstract]**,

- and the ending part comprising said wobble modulation representing second control information including recording parameters for the second recording layer **[fig. 5c, note that indicating where the data area ends on the second layer meets the 'recording parameter' limitation]**.

Regarding claim 4, Maeda teaches:

- Device for scanning a track on a record carrier (11) via a beam of radiation (24),
- the track comprising marks on a recordable area of a recording layer,
- the beam entering through an entrance face of the record carrier,
- the record carrier comprising...**[note that the particulars of the media as taught in claim 4 are not required in light of the device structure as taught below]**
- the device comprising a head for providing the beam **[32]**,
- recording means for writing marks in the track via the beam **[fig. 23a]**,
- a front-end unit for generating a scanning signal for detecting marks in the track **[fig. 23a]**,
- and wobble detection means for retrieving the first control information from the wobble modulation on the first recording layer and for locating the ending part and retrieving the second control information from the wobble modulation on the second recording layer **[par. spanning cols. 25 and 26]**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 - 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda in view of Ross [US 2003/0081535].

Regarding claims 2 and 3, Maeda teaches:

- Record carrier as claimed in claim 1,
- wherein the lead-in part of the pregroove is extending on the first recording layer from a starting radial position to an ending radial position [fig. 5c],

However, Maeda does not teach:

- the ending part of the pregroove that comprises the second control information is substantially located between a radial position corresponding to said ending radial position and a radial position corresponding to said starting radial position.
- wherein said ending radial position on the first recording layer substantially corresponds to a radial position on the second recording layer where the wobble modulation representing the second control information starts.

Ross does teach:

- the ending part of the pregroove that comprises the second control information is substantially located between a radial position

corresponding to said ending radial position and a radial position corresponding to said starting radial position [fig. 2].

- wherein said ending radial position on the first recording layer substantially corresponds to a radial position on the second recording layer where the wobble modulation representing the second control information starts [fig. 2].

It would have been obvious at the time of invention to one with ordinary skill in the art to modify the medium taught by Maeda with the corresponding radial area positioning taught by Ross because doing so would enable multi-session recording of media that would be backwards-compatible with older media readers [Ross, §0023].

Claims 5 – 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda.

Regarding claim 5, Maeda teaches:

- Device as claimed in claim 4,
- wherein the device comprises a control unit for performing an initialize procedure after inserting the record carrier [41. also see col. 22, lines 7 – 12],
- in which procedure the first control information is read in the lead-in part and the second control information layer is read in the ending part.

However, Maeda does not teach:

- in which procedure the first control information is recorded in the lead-in part and the second control information layer is recorded in the ending part.

It would have been obvious to one with ordinary skill in the art at the time of invention to modify the device taught by Maeda to record rather than read the each control data section because it is well known that by raising the laser power the device could write rather than read the control data onto the disc.

Regarding claims 6 – 8, Maeda does not disclose the alternative locations/arrangements for the first and second control info as claimed. However, the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art, namely control information being or not being accessible in a given layer. Accordingly, the claimed alternative locations/arrangements for the first and second control info would have been obvious at the time of invention.

Response to Arguments

Applicant's arguments filed 4/23/2009 have been fully considered but they are not persuasive.

Regarding claim 1, applicant argues that Maeda does not teach a wobble modulation representing first control information and a wobble modulation representing second control information. Examiner respectfully disagrees.

As indicated in the above citations of the rejection of claim 1, Maeda does teach all of the limitation of claim 1, including the first and second control information that are on separate layers.

Applicant also argues that Maeda does not teach "the use of different control parameters for managing the recording of control information specific to a particular recording layer." While Maeda may or may not teach the above feature, note that it is nowhere recited in applicant's claim 1 that the first and second control information must be different (and therefore particular) to each recording layer. In other words, the broadest reasonable interpretation of claim 1 is that the first and second control information have independent physical locations and that each contains recording parameters for the layers on which they are located. It is not taught that each layer must have different recording parameters.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the first and second control information have different formats) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's arguments regarding claims 2 – 8 center upon their dependency to claim 1. Therefore, the same response applies to each of claims 2 - 8.

The objection to the drawings has been withdrawn in view of applicant's arguments.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ANDREW J. SASINOWSKI** whose telephone number is (571)270-5883. The examiner can normally be reached on Monday to Friday, 7:30 to 5:00, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on (571)272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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